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PTO/SB/21 (01-08)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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## TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

47

Application Number

Patent#: 6,434,763

Filing Date

Issued: August 20, 2002

First Named Inventor

Toshiaki Kawakami

Art Unit

3751

Examiner Name

Charles R. Elishway

Attorney Docket Number

967\_012

### ENCLOSURES (Check all that apply)

☐ Fee Transmittal Form

☐ Fee Attached

☐ Amendment/Reply

☐ After Final

☐ Affidavits/declaration(s)

☐ Extension of Time Request

☐ Express Abandonment Request

☐ Information Disclosure Statement

☐ Certified Copy of Priority Document(s)

☐ Reply to Missing Parts/Incomplete Application

☐ Reply to Missing Parts under 37 CFR 1.52 or 1.53

☐ Drawing(s)

☐ Licensing-related Papers

☐ Petition

☐ Petition to Convert to a Provisional Application

☐ Power of Attorney, Revocation Change of Correspondence Address

☐ Terminal Disclaimer

☐ Request for Refund

☐ CD, Number of CD(s) \_\_\_\_\_

☐ Landscape Table on CD

☐ After Allowance Communication to TC

☐ Appeal Communication to Board of Appeals and Interferences

☐ Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)

☐ Proprietary Information

☐ Status Letter

☒ Other Enclosure(s) (please identify below):

Response under 37CFR1.322 (46 pages), Certificate of Express Mailing, Return Receipt Postcard

Remarks

Certificate  
FEB 15 2008  
of Correction

### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

|              |  |          |        |
|--------------|--|----------|--------|
| Firm Name    | MARJAMA MULDOON BLASIAK & SULLIVAN LLP |          |        |
| Signature    |  |          |        |
| Printed name | George S. Blasiak                      |          |        |
| Date         | February 12, 2008                      | Reg. No. | 37,283 |

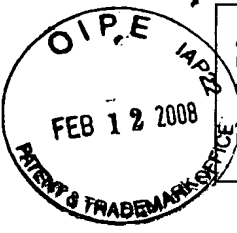
#### Transmittal

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service as Express Mail No. EM188601376US, on the date shown below in an envelope addressed to: MS Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

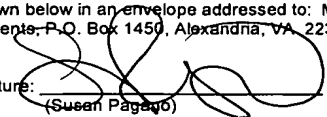
Dated: February 12, 2008

Signature

(Susan Pagano)



I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service as Express Mail, No. EM188601376US, on the date shown below in an envelope addressed to: MS Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: February 12, 2007      Signature:   
(Susan Pageau)

Docket No.: 967\_012  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Reissue Application of:  
Toshiaki Kawakami

Application No.: 09/901,359  
Patent No.: 6,434,763  
Granted: August 20, 2002

Confirmation No.: 5346

Filed: July 9, 2001

Art Unit: 3751

For: SEAT SUPPORTING TABLE FOR A  
BARBER OR BEAUTY CHAIR AND HAIR  
WASHER WITH THE SEAT SUPPORTING  
TABLE

Examiner: Charles R. Eloshway

**RESPONSE UNDER 37 CFR §1.322 TO COMMUNICATION INDICATING THAT  
OFFICE INTENDS TO ENTER NEW CERTIFICATE OF CORRECTION TO  
VACATE PREVIOUSLY ENTERED CERTIFICATE OF CORRECTION**

MS Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

A sealed Certificate of Correction (Appendix A) was properly granted and entered into the above U.S. Patent file on December 11, 2007. The sealed Certificate of Correction corrects the patent so that reference DE 3522110 A1 is indicated on the front cover sheet of the patent to be among the list of references considered by the Office during pendency of the application. The patentee had received certain other papers, namely a communication by Mary Diggs ("the Diggs paper") dated November 30, 2007 (attached hereto as Appendix B), a communication by Gregory Huson ("the Huson paper") dated December 11, 2007 (attached hereto as Appendix C) (but prior to the December 11, 2007 Certificate), a Notice dated November 15, 2002 in response to an earlier request for a Certificate of Correction of October 11, 2002 and a communication dated November 27, 2002 also in response to the October 11, 2002 request which might be characterized as being inconsistent with the sealed Certificate of Correction. However, the noted papers were properly understood to have been superseded by the December 11, 2007 sealed Certificate of Correction, which appears later in the record than each of the noted papers. Under U.S. law, a Certificate of Correction, when issued, merges into and becomes part of the issued patent. "Whenever a mistake in a patent, incurred through the fault of the Patent and Trademark Office, is clearly disclosed by the records of the Office, the Director may

issue a certificate of correction stating the fact and nature of such mistake, under seal, without charge, to be recorded in the records of patents. A printed copy thereof shall be attached to each printed copy of the patent, and such certificate shall be considered as part of the original patent. Every such patent, together with such certificate, shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such corrected form. The Director may issue a corrected patent without charge in lieu of and with like effect as a certificate of correction." See 35 U.S.C. §254

Notwithstanding the grant of a sealed Certificate of Correction, communications by the Office dated January 15, 2008 and January 16, 2008 (Appendices D and E, respectfully) indicate that the Office has determined that the December 2007 Certificate of Correction was issued in error. The January 15, 2008 communication indicates that a Certificate of Correction is being prepared to vacate the December 11, 2007 Certificate of Correction. 37 CFR §1.322(a)(4), requires that a patentee be given an opportunity to be heard before an adverse Certificate of Correction is entered by the Office. "The Office will not issue a certificate of correction under this section without first notifying the patentee (including any assignee of record) at the correspondence address of record as specified in §1.33(a) and affording the patentee or an assignee an opportunity to be heard." Contrary to the provisions of 37 CFR §1.322(a)(4), neither the January 15, 2008 nor the January 16, 2008 communications of the Office invite the patentee to respond to or traverse the communication. In fact, the January 15, 2008 communication expressly discourages a response: "No further response is required, from applicants (attorney)." Nevertheless, the patentee presents the present communication in response to the January 15, 2008 and the January 16, 2008 communications by the Office.

**I. Facts in support of response**

1. The patentee filed a Request for a Certificate of Correction dated October 11, 2007. The Request is attached hereto as Appendix F. In substance, the Request requested that the cited reference DE 3522110 A1 be added to the listing of references on the cover page of the patent. The Request argued that the noted reference had been submitted in a conforming Information Disclosure Statement (IDS) filed May 24, 2002 which included a dated copy of a communication from a foreign patent office in satisfaction of the requirement for a statement under 37 CFR §1.97(e). Under provisions of the Manual of Patenting Procedure (MPEP) in effect at the time of the May 24, 2002 Information Disclosure Statement, a dated copy of a communication from a foreign patent office satisfied the requirement for a statement under 37 CFR §1.97. *MPEP 8<sup>th</sup>, Rev. 1*

2. The Request was granted by the Office. The patentee has received a sealed Certificate of Correction, attached hereto as Appendix A. The PAIR database indicates that the grant of the Request was entered into the file on December 11, 2007.

3. Additional facts in support of the present response are as follows.

a. On November 29, 2007 patentee received a correspondence from the Office ("the Diggs paper") indicating that the patentee's October 11, 2007 Request was being denied for an Information Disclosure Statement lacking a statement under 37 CFR §1.97. However, after noting that the Office had overlooked the presented arguments that a copy of a communication from a foreign patent office satisfied the 37 CFR §1.97 requirement, the patentee's representative George S. Blasiak contacted the Corrections Division of the Office and verbally requested further consideration of the Request on the basis of the Office overlooking the patentee's argument that the 37 CFR §1.97 statement requirement had been satisfied by the submission of a foreign patent office communication. This verbal request was granted and on December 6, 2007, the patentee received notice that the October 11, 2007 request for a Certificate of Correction was being reconsidered in view of the patentee's argument that the submittal of a foreign patent office communication satisfied the CFR §1.97 statement requirement. The Office further advised the patentee that the Office would be consulting with the Office's Office of Legal Administration regarding the October 11, 2007 Request. On December 11, 2007, the patentee's Request was granted, and a sealed Certificate of Correction was entered into the record.

b. Between December 12, 2007 and December 14, 2007, after the grant of the Request by the Office on December 11, 2007, but before the patentee and before the Office of Legal Administration received notice of the grant, the patentee's representative engaged in telephonic conversations with representatives of the Office of Legal Administration. During these conversations, the Office of Legal Administration indicated that it concurred with the patentee's position that, at the time of the May 24, 2002 Information Disclosure Statement, the requirement of a statement under 37 CFR §1.97 would be satisfied by the submittal of a copy of a communication from a foreign patent office.

c. The patentee made a prior Request for Certificate of Correction dated October 11, 2002 for addition of the DE 3522110 A1 reference. The October 11, 2002 Request was denied, erroneously by the Office, for the underlying Information Disclosure Statement lacking a statement under 37 CFR §1.97 and for lack of fee payment, even though a dated copy of a communication was included in the underlying Information Disclosure Statement and even though the Office was authorized to access the patentee's deposit account for payment of any required fee.

d. The present patent is currently the subject of a reissue application, U.S. Patent Application No. 10/922,266.

**II. Legal arguments in support of the present response are as follows.**

1. Certificate of Correction of December 11, 2007 was properly issued because the requirement for a statement under 37 CFR §1.97 in the patent was satisfied.

As is explained in the October 11, 2007 Request for Certificate of Correction, the filing of a dated communication from a foreign patent office with the May 24, 2002 Information Disclosure Statement was in satisfaction of the requirement for a statement under 37 CFR §1.97 according to the provisions of the MPEP in effect at the time of the filing of the May 24, 2002 Information Disclosure Statement. The legal arguments presented in the October 11, 2007 Request for Certificate of Correction are incorporated herein by reference.

2. Certificate of Correction of December 11, 2007 was properly issued because the fee requirement for the May 24, 2002 Information Disclosure Statement was satisfied.

Also, the deposit account Authorization of the May 24, 2002 Information Disclosure Statement ("The Commissioner is hereby authorized to charge any additional fees associated with this communication to Deposit Account no. 50-0289") was in satisfaction of any applicable fee requirement.

3. Certificate of Correction of December 11, 2007 was properly issued because the subject matter of the Certificate is proper subject matter for Certificate of Correction.

The Request for Certificate of Correction of October 11, 2007 is proper subject matter for a Request for Certificate of Correction. A Certificate of Correction is appropriate for correcting mistakes incurred through the fault of the Office. *MPEP §1480, MPEP 8<sup>th</sup>, Rev. 6* The evidence of record indicates that the DE 3522110 A1 reference was considered by the Office and that failure of the Office to print the DE 3522110 A1 reference on the cover of the patent was a mistake incurred through the fault of the Office. When a conforming Information Disclosure Statement is submitted an Examiner *must* consider the information of the Information Disclosure Statement: "An Information Disclosure Statement filed in accordance with the provisions of 37 CFR §1.97 and 37 CFR §1.98 *will be considered* by the Examiner assigned to the application." (Emphasis added) *MPEP §609, MPEP 8<sup>th</sup>, Rev. 1*. Also, a presumption applies that a government agent has properly carried out his or her duties. See *American Hoist & Derrick Co. v. Sowa & Sons* 725 F.2d 1350, 1359 (Fed. Cir. 1984), ("[when relying on prior art already considered, a party seeking to invalidate a patent] has the added burden of overcoming the deference that is due to a qualified government agency presumed to have

properly done its job.”) Because the Information Disclosure Statement of May 24, 2002 listing the DE 3522110 A1 reference conformed with applicable rules for submission of an Information Disclosure Statement at the time it was filed, and further because Examiners must consider information of properly filed Information Disclosure Statements, and further because a government agent is presumed to have properly performed his or her job, the patentee is entitled to the presumption that the information of the May 24, 2002 Information Disclosure Statement was considered.

In addition to the noted presumption that the patentee enjoys, the May 24, 2002 Information Disclosure Statement bears an express indicia by the Office that the Information Disclosure Statement was entered into the record by the Office. The May 24, 2002 Information Disclosure Statement, attached hereto as Appendix G, bears the following marking:

**MENT**  
**OK to Enter**

Forms of the term “enter” as used by the Office are of legal significance and are used by the Office to distinguish information that is considered by the Office from information that is not considered. In the context of Office action responses made after final, a response is “entered” after final only if certain circumstances are present: “It should be kept in mind that applicant cannot, as a matter of right, amend any finally rejected claims...” *MPEP §714.13, MPEP 8<sup>th</sup>, Rev. 1* An amendment after final is not “entered” if the amendment would not place the case in condition for allowance or in better condition for appeal, would raise the issue of new matter or would raise new issues. *MPEP §714.13, MPEP 8<sup>th</sup> Rev. 1* Further, neither claims or arguments presented are entitled to consideration if they are not entered: “Once a final rejection... has been entered, applicant... no longer has any right to unrestricted further prosecution. This does not mean that no further amendment or argument will be *considered*. Any amendment that will place the application either in condition for allowance or in better form for appeal may be *entered*.” (Emphasis added) *MPEP §714.12, MPEP 8<sup>th</sup>, Rev. 1*

The term “entered” has also been used by the Office to distinguish information considered by the Office from information not considered in the context of affidavits and declarations. *MPEP §716.01* in effect that the time of the May 24, 2002 Information Disclosure Statement states as follows: “The following criteria are applicable to all evidence traversing rejections submitted by the applicants, including affidavits or declarations

submitted under 37 CFR 1.143(a) ...evidence traversing rejections must be timely or seasonably filed *to be entered and entitled to consideration.*" *In re Rothermel* 276 F.2d 393, 125 USPQ 328 (CCPA 1960) (emphasis added) cited in MPEP §716.01, MPEP 8<sup>th</sup>, Rev. 1

More recently, the Office has used the term "entered" to distinguish considered information from not considered information in the context of appeals. "An appendix containing copies of any evidence submitted pursuant to §1.130, §1.131, or §1.132 of this title or of any other evidence entered by the Examiner and relied upon by appellant in the appeal... Reference to unentered evidence is not permitted in the brief." 37 CFR §41.37 [effective September 13, 2004]

By contrast, the Office has used the term "placed in the file" to refer to information that is not considered: "... submitted information... which does not comply with 37 CFR §1.97 and 37 CFR §1.98 will be placed in the file, but will not be considered by the Office." MPEP §609, MPEP 8<sup>th</sup>, Rev. 1

The May 24, 2002 Information Disclosure Statement which is the subject of the present response was not marked "OK TO PLACE IN THE FILE." The May 24, 2002 Information Disclosure Statement is marked "OK TO ENTER." (emphasis added)

Still further, as the patentee argues in the October 11, 2007 request, the file record is devoid of an indication during the prosecution of the patent that the reference DE 3522110 A1 was not considered. "If an Examiner believes that an Information Disclosure Statement is not properly submitted, the proper course of action is to notify the applicant. If an item of information in an ids fails to comply with all the requirements of 37 CFR 1.97 and 37 CFR 1.98, that item of information in the ids will not be considered **and a line should be drawn through the citation to show that it has not been considered.** However, other items of information that do comply with all the requirements of 37 CFR 1.97 and 37 CFR 1.98 will be considered by the Examiner." (emphasis added) MPEP 8<sup>TH</sup>, Rev. 1, August 2001 The patentee received no such communication from the Office during pendency of the application which would indicate that the Office did not consider the DE 3522110 A1 reference. Rather, there is a specific indication that the Information Disclosure Statement was entered into the record.

4. Certificate of Correction grant of December 11, 2007 evidences that reference DE 3522110 A1 was considered.

By grant of the December 11, 2007 Certificate of Correction under seal the Office has indicated that it concurs that the record clearly

discloses that reference DE 3522110 A1 was considered by the Office and should have been printed on the patent.

5. Certificate of Correction of December 11, 2007 cannot be vacated because the Office does not have a basis for entering a new Certificate to vacate the properly entered and sealed December 11, 2007 Certificate.

When a sealed Certificate of Correction issues, it merges into and becomes part of the issued patent. See 35 USC §254. A new Certificate of Correction to vacate the December 11, 2007 Certificate would not be proper since Certificates of Correction can only be issued if there is clearly disclosed by the records of the Office that there was a mistake on the part of the Office. See 35 U.S.C. §254. As noted, the Office records clearly indicate that the December 11, 2007 Certificate was properly issued. As noted, the May 24, 2002 Information Disclosure Statement was properly submitted, and the patentee enjoys the presumption that a government agent has properly performed his or her job and therefore enjoys the presumption that the reference of the May 24, 2002 Information Disclosure Statement was properly considered. The presumption enjoyed by the patentee that the reference was considered is only reinforced by the prosecution record which contains the express indication that the May 24, 2002 Information Disclosure Statement was entered into the record, and is devoid of any notice or indication that the May 24, 2002 Information Disclosure Statement was not considered during the pendency of the application.

Further, the record indicates that the December 11, 2007 Certificate of Correction was entered by the Corrections Division in response to a verbal request for reconsideration by the patentee in which the patentee highlighted that a copy of a communication from a foreign patent office would satisfy the requirement for a statement under 37 CFR §1.97. As the patentee has noted in the facts section herein, the patentee's representative was notified on December 6, 2007 that the Office would be reconsidering the patentee's request in view of the patentee's argument that the 37 CFR §1.97 statement requirement was satisfied by submission of a communication from a foreign patent office. Shortly thereafter, on December 11, 2007, the sealed Certificate of Correction was properly entered into the record.

It is respectfully asserted that the Office would not be able to establish that there is a clearly disclosed error in the record regarding the Office's entry of the December 11, 2007 Certificate of Correction on December 11, 2007.

If the position of the Office is that the Certificate of Correction issued by the Office on December 11, 2007 which merged into the issued patent and bears the seal of the Office and the signature of the Director



was issued "mistakenly" by a government agent who had no authority to issue Certificates of Correction and who proceeded without any authorization by any other agent at the Office authorized to issue the Certificates, the patentee respectfully asserts that additional proof would be required to substantiate such a position, rather than merely a statement by the Office that a mistake had been made. It is assumed that substantial processes are in place so that sealed Certificates of Correction that define rights that merge into underlying patent rights are not issued "mistakenly."

On January 31, 2008, the patentee's representative George S. Blasiak engaged in a teleconference with Antonio Johnson, the official signing the January 15, 2008 correspondence (Appendix D). During the teleconference, Johnson indicated that his correspondence of January 15, 2008 had been prepared based on the content of the December 11, 2007 paper prepared by Supervisory Patent Examiner Gregory Huson, (the "Huson paper"). However, during the teleconference, Johnson did not disagree that the Huson paper failed to evidence a substantive consideration of the arguments set forth by the patentee in the October 11, 2007 Request. Specifically, Johnson did not disagree that the Huson paper failed to evidence consideration of the patentee's argument that the May 24, 2002 Information Disclosure Statement complied with the 37 CFR §1.97 statement requirement by virtue of its inclusion of a dated communication from a foreign patent Office.

Further, Johnson agreed with the observation of the patentee's representative that when a government agent intentionally, with authority per a review of the facts, and without mistake issues a Certificate of Correction, such issuance is typically not accompanied by any paper detailing the reasons why the decision to grant the Certificate of Correction was made. Accordingly, an absence of a paper indicating a reason for the grant of the December 11, 2007 Certificate of Correction (particularly given that the reasons for its grant are clear from the record) will not be regarded as negating the presumption that the Certificate of Correction was intentionally and properly granted by an authorized government agent.

6. The January 15, 2008 and January 16, 2008 communications by the Office contain *prima facie* evidence that the determination by the Office that the December 11, 2007 Certificate of Correction was entered in error was not made pursuant to a substantive investigation as to the decision making process of the Office when it properly granted the December 11, 2007 Certificate of Correction under seal.

The record reveals that the Office granted the December 11, 2007 Certificate of Correction shortly after the patentee, via telephone conference, highlighted that under rules in effect at the time of the May

24, 2002 Information Disclosure Statement, a submission of a copy of a communication from a foreign patent office satisfied the requirement for a statement under 37 CFR §1.97. However, neither of the January 15, 2008 nor January 16, 2008 communications by the Office even acknowledge the argument by the patentee that, under rules then in effect, a copy of a communication from a foreign patent office satisfied the 37 CFR §1.97 statement requirement. Both of the January 15, 2008 and January 16, 2008 communications by the Office merely conclude, without comment on the patentee's arguments that the requirements under 37 CFR §1.97 were not satisfied and curiously mention that a fee requirement was not satisfied even though a deposit account acknowledgement was provided in the May 24, 2002 Information Disclosure Statement. Because neither of the January 15, 2008 nor January 16, 2008 communications by the Office even acknowledge the argument of the patentee that a copy of a communication from a foreign patent office satisfied the CFR §1.97 statement requirement the January 15, 2008 and January 16, 2008 communications by the Office are *prima facie* evidence that the Office has not substantively investigated whether the December 11, 2007 Certificate of Correction was properly granted.

The January 15, 2008 communication by the Office mentions that a denial with reference to the patentee's October 11, 2007 request was forwarded to the Corrections Division on December 11, 2007. However, if the Office is making the above statement based on a paper dated December 11, 2007 by Supervising Primary Examiner Gregory Huson (the "Huson paper"), the Office will notice that the Huson paper like the January 15, 2008 and the January 16, 2008 communications, does not even acknowledge the patentee's 37 CFR §1.97 argument that a copy of a communication from a foreign patent office satisfied the 37 CFR §1.97 statement requirement and thus cannot reasonably be taken as evidence of substantive review either of the file record or of the patentee's October 11, 2007 request. As it does not even acknowledge the patentee's 37 CFR §1.97 argument, the December 11, 2007 paper by the Supervising Primary Examiner cannot reasonably be taken to be in accordance with the Office's statement that it would be considering the patentee's CFR §1.97 argument.

7. A new Certificate of Correction vacating the December 11, 2007 Certificate of Correction cannot be issued because the patentee has not been given an opportunity to be heard.

A Certificate of Correction vacating the proper December 11, 2007 Certificate of Correction would not be proper for the further reason that the Office has not afforded the patentee the opportunity to be heard. Under 37 CFR §1.322(a) (4) the Office must provide a patentee with an opportunity to be heard prior to entering an adverse Certificate of Correction: "The Office will not issue a certificate of correction under this

section without first notifying the patentee (including any assignee of record) at the correspondence address of record as specified in § 1.33(a) and affording the patentee or an assignee an opportunity to be heard.” However, the Office has not provided the patentee with such an opportunity. While the January 15, 2008 and January 16, 2008 communications provide notice of a possible new Certificate, the Office has not provided the patentee an opportunity to be heard. Neither the January 15, 2008 or January 16, 2008 communication establish a deadline for response, and in fact the January 15, 2008 communication discourages a response: “No further response is required, from applicants (attorney).”

### **III. Request for Relief**

Accordingly, in view of all of the above, the Certificate of Correction entered into the record December 11, 2007 under seal was correct and proper.

The patentee accordingly respectfully requests the Office to enter communication(s) on the record indicating that (1) the communications by the Office of January 15, 2008 and January 16, 2008 were in error and (2) that the December 11, 2007 Certificate of Correction will remain in force.

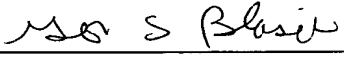
The patentee’s representative notes that various communications by the Office since the time of the patentee’s October 11, 2007 Certificate of Correction request (except for the properly granted December 11, 2007 Certificate of Correction), evidence that the Office fails to substantively consider the file record and the arguments presented by the patentee. Specifically, in various communications, the Office fails to acknowledge the patentee’s argument that, at the time of the May 24, 2002 Information Disclosure Statement, a copy of a communication from a foreign patent office could be submitted as satisfaction of the requirement for a statement. Notwithstanding the clarity with which the patentee has established its position, (in the request of October 11, 2007, and in telephone conferences with Office representatives thereafter), each of the January 15, 2008 and January 16, 2008 communications includes the simple assertion that the May 24, 2002 Information Disclosure Statement lacked a statement under 37 CFR §1.97 without any discussion whatsoever as to why the patentee’s submission of a communication from a foreign patent office was not taken in satisfaction of the 37 CFR §1.97 statement requirement. The Office’s January 15, 2008 and January 16, 2008 communications also include the curious statement by the Office that a fee requirement respecting the May 24, 2002 Information Disclosure Statement was not satisfied without any discussion of the patentee’s argument that the fee requirement was satisfied by the patentee’s deposit account authorization.

If the present communication by the patentee is not substantively responded to by the Office, the record will reflect that the Office concurs that the December 11, 2007 Certificate of Correction was properly issued.

The patentee believes no fee is due with this response. However, the Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to deposit Account No. 50-0289.

Dated: February 12, 2008

Respectfully submitted,

By 

George S. Blasiak

Registration No.: 37,283

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**250 South Clinton Street**

**Suite 300**

**Syracuse, New York 13202**

**(315) 425-9000**

**Customer No. 20874**

GSB/slp

## **List of Appendices**

- A. Sealed Certificate of Correction dated December 11, 2007
- B. Communication by Mary Diggs dated November 30, 2007
- C. Communication by Gregory Huson dated December 11, 2007, (but prior to the December 11, 2007 Certificate)
- D. Communication by the Office dated January 15, 2008
- E. Communication by the Office dated January 16, 2008
- F. Request for a Certificate of Correction dated October 11, 2007
  - Exhibit A PAIR Headings dated October 1, 2007
  - Exhibit B The DE 35 22 110 A1 reference submitted in the May 24, 2002 Information Disclosure Statement along with a communication from a foreign patent Office dated März (March) 26, 2002 which was appended to the DE 35 22 110 A1 reference submitted in the May 24, 2002 Information Disclosure Statement.
- G. Conforming Information Disclosure Statement cover page dated May 24, 2002

# Appendix A

UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT NO. : 6,434,763 B2  
APPLICATION NO. : 09/901359  
DATED : August 20, 2002  
INVENTOR(S) : Toshiaki Kawakami

Page 1 of 1

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Title Page, item Col. 2

(56) References Cited

U.S. PATENT DOCUMENTS

After the last Cited Reference "6,230,345 B1 \* 5/2001 Borrero et al." Please insert  
--FOREIGN PATENT DOCUMENTS

DE 3522110 A1 6/1985--

Signed and Sealed this

Eleventh Day of December, 2007



A handwritten signature in black ink, reading "Jon W. Dudas".

JON W. DUDAS  
*Director of the United States Patent and Trademark Office*

# Appendix B





UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
ASSISTANT SECRETARY OF COMMERCE AND  
COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

Patent No. : 6,434,763

Inventor(s) : Toshiaki Kawakami

Issued : August 20, 2002

For: SEAT SUPPORTING TABLE FOR A BARBER OR BEAUTY CHAIR AND  
HAIR WASHER WITH THE SEAT SUPPORTING TABLE

Re. Request for Certificate of Correction

Consideration has been given your request under the provisions of Rule 1.322.

The alleged error on the title page, item [56] under U.S. Patent documents at the last reference cited was filed 5/24/02 (per the certificate of mailing), which is more than three months after the filing date of the application, and later than the Notice of Allowance mailed 3/11/02. The IDS was not accompanied by a statement or fee as required by 37 CFR 1.97 in these circumstances. Thus, the IDS will not be considered, and the omission of the reference is proper

In view of the foregoing, your request is hereby denied.

Further correspondence concerning this matter, should be directed to:

U.S. Patent and Trademark Office  
Washington, DC 20231  
Attn: Decisions & Certificates of Correction Branch

For Mary Diggs  
Decisions & Certificate  
of Correction Branch  
(703) 308-9390 ext.124 or 125

George S. Blasiak  
Marjama Muldoon Blasiak & Sullivan  
250 South Clinton Street, Suite 300  
Syracuse, New York 13202

ej

# Appendix C

**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

DATE 12/11/2007

Paper No.: \_\_\_\_\_

TO SPE OF : ART UNIT 3751

SUBJECT : Request for Certificate of Correction on Patent No.: 6434763 B2 09/901359

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:

Palm location 7580, Certificates of Correction Branch – South Tower – 9A22

If response is for an IFW, return to employee (named below) via PUBSCofC Team in MADRAS.

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

*Reconsideration*

*E. James*

Thank You For Your Assistance

Certificates of Correction Branch *124*  
Tel. No. 703-308-9390 ext. ~~124~~

*Attorney & Applicant want to know the status of the IDS. See can*

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☐ Approved

All changes apply.

☐ Approved In Part

Specify below which changes do not apply.

☒ Denied

State the reasons for denial below.

Comments:

- The IDS was filed 5/24/02 (per the certificate of mailing), which is more than three months after the filing date of the
- application, and later than the Notice of Allowance mailed
- 3/11/02. The IDS was not accompanied by a statement or fee as required by 37 CFR 1.97(d) in these circumstances.
- Thus, the IDS will not be considered, and the omission of the
- reference is proper.

GREGORY HUSON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700

*[Signature]*  
SPE

3751  
Art Unit

# Appendix D



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
ASSISTANT SECRETARY OF COMMERCE AND  
COMMISSIONER OF PATENTS AND TRADEMARKS  
P.O. Box 1450  
Alexandria, VA 22313-1450

January 15, 2008

**MARJAMA MULDOON BLASIAK & SULLIVAN LLP**  
**250 SOUTH CLINTON STREET**  
**SUITE 300**  
**SYRACUSE NY 13202**

Patent No. : 6,434,763 B2  
Inventor(s) : Adrian Toshiaki Kawakami  
Issued : August 20, 2002  
For **SEAT SUPPORTING TABLE FOR A  
BARBER OR BEAUTY CHAIR AND HAIR  
WASHER WITH THE SEAT SUPPORTING  
TABLE**  
Doc. No. 967\_012

To Whom It May Concern:

The Certificate of Correction issued on December 11, 2007, issued in error, in that error(s) was made in identifying the patent number and/or keying text/corrections, i.e.:

The certificate of correction inserting Foreign Patent Document, DE 3522110 A1, was issued in error. On December 11, 2007, the supervisory patent examiner of record for patented file forwarded decision to our branch denying the request for certificate of correction. The office mistakenly issued certificate of correction adding the Foreign Patent Document, DE 3522110 A1, on December 11, 2007. The IDS was filed 05/24/2002(per the certificate of mailing), which is more than three months after the filing date of the application, and later than the Notice of Allowance mailed 03/11/2002. The IDS was not accompanied by a statement or fee as required by 37 CFR 1.97(d) in these circumstances. Thus, the IDS will not be considered, and the omission of the reference is proper.

A certificate of correction is being prepared to vacate certificate of correction issued December 11, 2007 from issued patent. The request for certificate of correction filed 10-11-2007 has been denied(letter attached) and no certificate of correction should have been issued to add the Foreign Patent Document reference DE 3522110 A1.

---

No further response is required, from applicants (attorney). However, errors discovered by attorney, other than as noted and described above, should be noted on *a copy* of the Certificate of Correction that was issued in error, accompanied by a signed transmittal letter and submitted directed to this Branch.

Antonio Johnson  
(703) 308-9390 ext. 111  
For Mary F. Diggs, Supervisor  
Decisions & Certificates of Correction Branch

# Appendix E

115-08



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
ASSISTANT SECRETARY OF COMMERCE AND  
COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

Patent No. : 6,434,763 B2

Inventor(s) : Toshiaki Kawakami

Issued : August 20, 2002

For: SEAT SUPPORTING TABLE FOR A BARBER OR BEAUTY CHAIR AND  
HAIR WASHER WITH THE SEAT SUPPORTING TABLE

Re. Request for Certificate of Correction

Consideration has been given your request under the provisions of Rule 1.322.

The alleged error on the title page, pertaining to the IDS was filed 5/24/02 (per the certificate of mailing), which is more than three months after the filing date of the application, and later than the Notice of Allowance mailed 3/11/02. The IDS was not accompanied by a statement or fee as required by 37 CFR 1.97(d) in these circumstances. Thus, the IDS will not be considered, and the omission of the reference is proper

In view of the foregoing, your request is hereby again denied.

Further correspondence concerning this matter, should be directed to:

U.S. Patent and Trademark Office  
Washington, DC 20231  
Attn: Decisions & Certificates of Correction Branch

For Mary Diggs  
Decisions & Certificate  
of Correction Branch  
(703) 308-9390 ext.124 or 125

Marjama Muldoon Blasiak & Sullivan  
250 South Clinton Street  
Suite 300  
Syracuse NY 13202

ej

# Appendix F



I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service as Express Mail, No. EM154107250US, on the date shown below in an envelope addressed to: Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: October 11, 2007

Signature: 

(Susan Pagano)

Docket No.: 967\_012  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Toshiaki Kawakami

Application No.: 09/901,359

Confirmation No.: 5346

Filed: July 9, 2001

Art Unit: 3751

For: SEAT SUPPORTING TABLE FOR A  
BARBER OR BEAUTYCHAIR AND HAIR  
WASHER WITH THE SEAT SUPPORTING  
TABLE

Examiner: Charles R. Eloshway

**REQUEST FOR CERTIFICATE OF CORRECTION**

**PURSUANT TO 37 C.F.R. § 1.322**

Certificate of Corrections Branch  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Please see remarks which begin on page 2.

In the alternative, a statement can be made if no item of information contained in the IDS was cited in a communication from a foreign patent office in a counterpart foreign application and, to the knowledge of the person signing the statement after making reasonable inquiry, neither was it known to any individual having a duty to disclose more than 3 months prior to the filing of the statement. (*Emphasis added*) MPEP 609, 8<sup>th</sup>, Rev. 1, August 2001

Regarding the requirement for a dated communication from a foreign patent office, a communication from a foreign patent office clearly dated März (March) 26, 2002 and received April 12, 2002 was appended to the DE 35 22 110 A1 reference with the May 24, 2002 IDS filing. The Office's attention is directed to the entry identified by "06-11-2002 FOR Foreign Reference" in the Patent Application Information Retrieval (PAIR) database (the PAIR Headings are attached as Exhibit A and a printout of the noted submission as it is presented in the official file wrapper is attached as Exhibit B).

Regarding the requirement for a fee, the May 24, 2002 IDS included the statement: "The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to deposit account no. 50-0289."

Further to the above, while applicants were (erroneously) informed of an alleged deficiency in the May 24, 2002 IDS after issuance, applicant received no notice respecting any deficiency of the May 24, 2002 IDS during the pendency of the application. Under MPEP §609, in effect at the time of the May 24, 2002 IDS, an Examiner's duty with respect to IDSs was as follows:

If an item of information in an IDS fails to comply with all the requirements of 37 CFR 1.97 and 37 CFR 1.98, that item of information in the IDS will not be considered ***and a line should be drawn through the citation to show that it has not been considered.*** However, other items of information that do comply with all the requirements of 37 CFR 1.97 and 37 CFR 1.98 will be considered by the examiner. (*Emphasis added*) MPEP 8<sup>th</sup>, Rev. 1, August 2001

Applicant did not receive any returned paper having a line drawn through the DE 35 22 110 A1 citation between the time the May 24, 2002 IDS was filed, and the

**UNITED STATES PATENT AND TRADEMARK OFFICE  
CERTIFICATE OF CORRECTION**

Page 1 of 1

PATENT NO. : 6,434,763  
APPLICATION NO. : 09/901,359  
ISSUE DATE : August 20, 2002  
INVENTOR(S) : Toshiaki Kawakami

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

**FACE OF THE PATENT**

**(56) References Cited**

**U. S. PATENT DOCUMENTS**

**After the last Cited Reference "6,230,345 B1 \* 5/2001 Borrero et al." Please insert  
FOREIGN PATENT DOCUMENTS**

**DE 3522110 A1 6/1985**

**Transmittal**

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service as Express Mail, No. EM154107250US, on the date shown below in an envelope addressed to: Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: October 11, 2007

Signature:  (Susan Pagano)

**MAILING ADDRESS OF SENDER (Please do not use customer number below):**

George S. Blasiak  
MARJAMA MULDOON BLASIAK & SULLIVAN LLP  
250 South Clinton Street  
Suite 300  
Syracuse, New York 13202

time, almost three full months thereafter, that the patent issued (the patent issued on August 20, 2002). The lack of notice by the Office during the pendency of the application indicated that the Office correctly regarded the May 24, 2002 IDS to be in compliance with applicable provisions of the MPEP in effect at the time the May 24, 2002 IDS was filed.

In view of the above, the May 24, 2002 IDS complied with applicable provisions of the MPEP in effect at the time of the filing of the May 24, 2002 IDS.

It is, therefore, requested that a Certificate of Correction be issued as per the attached form PTO/SB/44 submitted herewith in duplicate. By grant of the present Request the Office will confirm that the DE 35 22 110 A1 reference submitted with the May 24, 2002 IDS has been considered.

If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-0289, under Order No. 967\_012 from which the undersigned is authorized to draw.

Dated: October 11, 2007

Respectfully submitted,

By George S. Blasiak

George S. Blasiak  
Registration No.: 37,283  
MARJAMA MULDOON BLASIAK & SULLIVAN LLP  
250 South Clinton Street  
Suite 300  
Syracuse, New York 13202  
(315) 425-9000  
Customer No. 20874

GSB/slp

**REMARKS**

Receipt of the above-identified patent is hereby acknowledged. The present patent has been subject to an application for re-issue (re-issue application no. 10/922,266). However, the noted re-issue application has not been granted. Until a re-issue application is granted, the original patent shall remain in effect. See *MPEP* §1416, 37 CFR § 1.178

In checking the original patent against our file, however, (1) one minor error was noted. One cited reference was omitted. This reference was cited in a conforming Information Disclosure Statement (IDS) filed May 24, 2002 prior to payment of the Issue Fee paid June 11, 2002.

The present Request for Certificate of Correction is a re-file of the Certificate of Correction Request dated October 11, 2002 ("the first Request"). The first Request was denied for the reason that the May 24, 2002 IDS allegedly lacked a required communication by the applicant under 37 C.F.R. § 1.97(e) and did not include a required fee.

On further review of the prosecution history, the applicant has noted that the IDS filed May 24, 2002 fully complied with applicable provisions of the Manual of Patent Examining Procedure (MPEP) in effect at the time the May 24, 2002 IDS was filed, and by mistake of the Office, was not indicated to be considered by the Office.

Under the *MPEP 8<sup>th</sup>, Revision 1*, in effect at the time of filing of the May 24, 2002 IDS, a copy of a dated communication from a foreign patent office could be submitted in lieu of the referenced required communication by the applicant under 37 C.F.R. §1.97(e):

***If an IDS includes a copy of a dated communication from a foreign patent office which clearly shows that the statement is being submitted within 3 months of the date of the communication, the copy will be accepted as the required communication. It will be assumed, in the absence of evidence to the contrary, that the communication was for a counterpart foreign application.***

**UNITED STATES PATENT AND TRADEMARK OFFICE  
CERTIFICATE OF CORRECTION**

Page 1 of 1

PATENT NO. : 6,434,763  
APPLICATION NO. : 09/901,359  
ISSUE DATE : August 20, 2002  
INVENTOR(S) : Toshiaki Kawakami

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

**FACE OF THE PATENT**

**(56) References Cited**

**U. S. PATENT DOCUMENTS**

**After the last Cited Reference "6,230,345 B1 \* 5/2001 Borrero et al." Please insert  
FOREIGN PATENT DOCUMENTS**

**DE 3522110 A1 6/1985**

**Transmittal**

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service as Express Mail, No. EM154107250US, on the date shown below in an envelope addressed to: Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: October 11, 2007

Signature: 

(Susan Pagano)

**MAILING ADDRESS OF SENDER (Please do not use customer number below):**

George S. Blasiak  
MARJAMA MULDOON BLASIAK & SULLIVAN LLP  
250 South Clinton Street  
Suite 300  
Syracuse, New York 13202

# **EXHIBIT A**



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09/901,359

SEAT SUPPORTING TABLE FOR A BARBER OR BEAUTY CHAIR AND HAIR WASHER WITH THE SEAT  
SUPPORTING TABLE

| Select New Case | Application Data | Transaction History | Image File Wrapper | Patent Term Adjustments | Continuity Data | Foreign Priority | Fees | Published Documents | Address & Attorney/Agent | Assignments | Display References |
|-----------------|------------------|---------------------|--------------------|-------------------------|-----------------|------------------|------|---------------------|--------------------------|-------------|--------------------|
|-----------------|------------------|---------------------|--------------------|-------------------------|-----------------|------------------|------|---------------------|--------------------------|-------------|--------------------|

This application is officially maintained in electronic form. To View: Click the desired Document Description. To Download and Print: Check the desired document(s) and click Start Download.

## Available Documents

| Mail Room Date | Document Code | Document Description  | Document Category | Page Count |  |
|----------------|---------------|---|-------------------|------------|--|
| 11-27-2002     | CTMS          | Miscellaneous Action with SSP   | PROSECUTION       | 1          |  |
| 11-26-2002     | CTMS          | Miscellaneous Action with SSP   | PROSECUTION       | 2          |  |
| 11-15-2002     | IMIS          | Miscellaneous Internal Document   | PROSECUTION       | 1          |  |
| 10-21-2002     | LET           | Miscellaneous Incoming Letter   | PROSECUTION       | 2          |  |
| 06-24-2002     | IFEE          | Issue Fee Payment (PTO-85B)   | PROSECUTION       | 1          |  |
| 06-11-2002     | IDS           | Information Disclosure Statement (IDS) Filed  | PROSECUTION       | 3          |  |
| 06-11-2002     | FOR           | Foreign Reference   | PROSECUTION       | 11         |  |
| 03-11-2002     | NOA           | Notice of Allowance and Fees Due (PTOL-85)  | PROSECUTION       | 6          |  |
| 03-11-2002     | 892           | List of references cited by examiner  | PROSECUTION       | 1          |  |
| 02-21-2002     | SRNT          | Examiner's search strategy and results  | PROSECUTION       | 1          |  |
| 09-13-2001     | IMIS          | Miscellaneous Internal Document   | PROSECUTION       | 1          |  |
| 07-09-2001     | TRNA          | Transmittal of New Application  | AS FILED          | 2          |  |
| 07-09-2001     | A PE          | Preliminary Amendment   | AS FILED          | 3          |  |
| 07-09-2001     | SPEC          | Specification   | AS FILED          | 9          |  |
| 07-09-2001     | CLM           | Claims  | AS FILED          | 2          |  |
| 07-09-2001     | ABST          | Abstract  | AS FILED          | 1          |  |
| 07-09-2001     | DRW           | Drawings  | AS FILED          | 4          |  |
| 07-09-2001     | OATH          | Oath or Declaration filed   | AS FILED          | 3          |  |
| 07-09-2001     | IIFW          | Issue Information including classification, examiner, name, claim, renumbering, etc.  | PROSECUTION       | 1          |  |
| 07-09-2001     | SRFW          | Search information including classification, databases and other search related notes | PROSECUTION       | 1          |  |
| 07-09-2001     | FWCLM         | Index of Claims   | PROSECUTION       | 1          |  |
| 07-09-2001     | TRNA          | Transmittal of New Application  | PROSECUTION       | 2          |  |
| 07-09-2001     | DRW           | Drawings  | PROSECUTION       | 4          |  |
| 07-09-2001     | SPEC          | Specification   | PROSECUTION       | 9          |  |
| 07-09-2001     | CLM           | Claims  | PROSECUTION       | 2          |  |
| 07-09-2001     | ABST          | Abstract  | PROSECUTION       | 1          |  |
| 07-09-2001     | OATH          | Oath or Declaration filed   | PROSECUTION       | 3          |  |
| 07-09-2001     | BIB           | Biographic Data Sheet   | PROSECUTION       | 1          |  |
| 07-09-2001     | WFEE          | Fee Worksheet (PTO-06)  | PROSECUTION       | 1          |  |
| 07-09-2001     | WFEE          | Fee Worksheet (PTO-06)  | PROSECUTION       | 1          |  |
| 07-09-2001     | WCLM          | Claims Worksheet (PTO-2022)   | PROSECUTION       | 1          |  |
| 07-09-2001     | A...          | Amendment - After Non-Final Rejection   | PROSECUTION       | 1          |  |
| 07-09-2001     | REM           | Applicant Arguments/Remarks Made in an Amendment                                      | PROSECUTION       | 2          |  |
| 07-09-2001     | ABST          | Abstract  | PROSECUTION       | 1          |  |
| 07-09-2001     | FRPR          | Certified Copy of Foreign Priority Application  | PROSECUTION       | 18         |  |

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# **EXHIBIT B**

⑬ BUNDESREPUBLIK  
DEUTSCHLAND



DEUTSCHES  
PATENTAMT

⑫ Offenlegungsschrift  
⑪ DE 3522110 A1

⑭ Int. Cl. 4:  
A47C 1/04

⑲ Aktenzeichen: P 35 22 110.0  
⑳ Anmeldetag: 20. 8. 86  
㉑ Offenlegungstag: 2. 1. 87

DE 3522110 A1

⑳ Unionspriorität: ⑳ ㉑ ㉒  
19.08.85 EP

㉓ Anmelder:  
Jobst, Fritz, 7070 Schwäbisch-Gmünd, DE

㉔ Erfinder:  
gleich Anmelder

㉕ Waschsessel für Prioren

Der Waschsessel dient zum Waschen der Kopfhaare.  
Durch Verschieben der Sitzfläche nach vorn und unten wird  
der Abstand zwischen Waschbecken und Sitzfläche vergrößert.  
Dadurch ist man in der Lage, Menschen verschiedener  
Größe in diesem Sessel zu waschen.

DE 3522110 A1

## Patentansprüche

- 1) Sitzflächenträger dadurch gekennzeichnet, daß die hinteren Führungsbahnen für die Sitzrollen schräg nach unten und die vorderen Führungsbahnen für die Sitzrollen schräg nach oben, in Richtung nach vorn geneigt sind.
- 2) Nach Anspruch 1) dadurch gekennzeichnet, daß die vordere Führungsbahn waagrecht ist.
- 3) Nach Anspruch 1) und 2), daß der Sitzflächenträger 3 Führungsbahnen hat (3 Punkt-Auflage).
- 4) Nach Anspruch 1), 2) und 3), daß der Sitzflächenträger aus Stahlrohr angefertigt ist.
- 5) Nach Anspruch 1), 2), 3) und 4), daß der Sitzflächenträger aus Aluminium angefertigt ist.
- 6) Nach Anspruch 1), 2), 3), 4) und 5), daß der Sitzflächenträger aus U-Profil angefertigt ist.

## Beschreibung

## Allgemeines

Durch die unterschiedliche Größe der Menschen muß die Höhe zwischen Sitzfläche und Waschbecken verstellbar sein. Der Höhenunterschied wird durch kippen, verschieben oder durch eine Höhenverstellung des Waschbeckens erreicht. Denselben Zweck erreicht man durch verschieben der Sitzfläche in horizontaler oder kreisbogenförmiger Lage, oder gleichzeitige Verschiebung nach vorne und unten. Eine weitere Möglichkeit ist die Höhenverstellung der Sitzfläche. Durch das Verschieben wird der Oberkörper aus der vertikalen in eine Schräglage gebracht. Dadurch vergrößert sich der Abstand zwischen Sitzfläche und Waschbecken.

## Nachteile

Der Nachteil der Höhenverstellung sind bewegliche Schläuche und eine größere Arbeitsgenauigkeit (Führung). Bei klippbaren Waschbecken kann man in der unteren Stellung die Haare nicht genügend bearbeiten.

Waschseibel mit verschiebbarer Sitzfläche und 4 Gleitpunkten haben alle eine gleitende Führungsbahn. Durch die Befestigung des Führungsbahnträgers auf dem Fußboden, der nie eben ist, entstehen Spannungen. Der Führungsbahnträger muß deshalb stabil sein, um die Spannungen aufzufangen. Durch verschieben der Sitzfläche nach vorn und schräg unten wird die Beinstellung bei größeren Menschen ungünstig verändert. Der Schenkel liegt nicht mehr auf der Sitzfläche auf.

## Lösung der Aufgabe und Beschreibung des Waschseibels

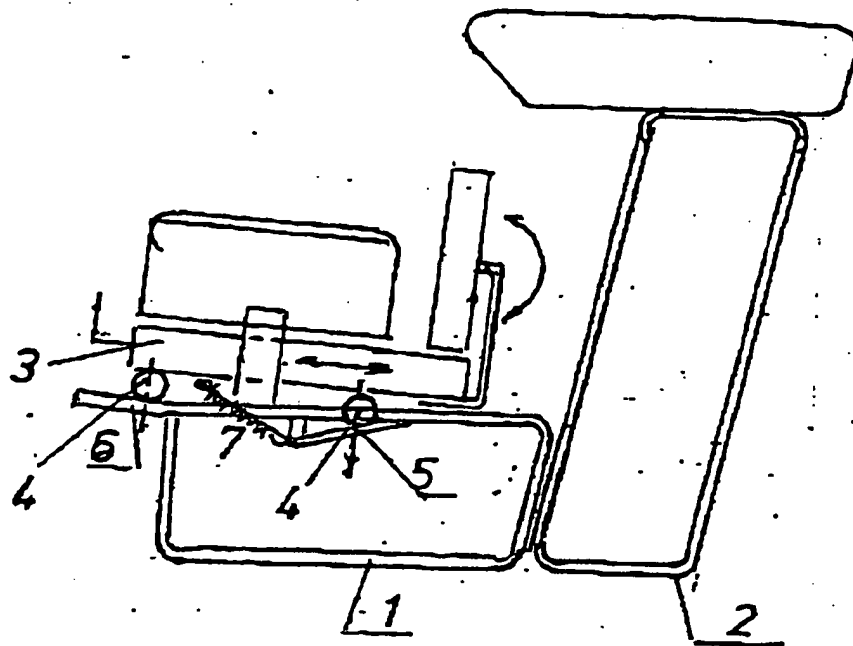
## Lösung:

Durch eine 3-Punkt und rollende Führung kann man eine leichte Konstruktion verwenden. Auch bei unebenem Fußboden kippt die Sitzfläche nicht. Die Führungsbahnen für die Sitzfläche sind hinten nach unten und vorn waagrecht oder nach oben geneigt. Beim Verschieben der Sitzfläche neigt die hintere Kante nach unten und die vordere Kante nach oben. Durch diese Bewegung wird die Schenkelhöhe größer und ein angenehmeres Sitzen erreicht. Die verschiedenen Winkelstellungen der Führungsbahnen — hinten nach unten und vorn waagrecht, oder nach oben — kompensierenden Druck des Körpergewichtes aus, sodaß nur eine schwache Zugfeder zum Gewichtsausgleich benötigt wird.

## Beschreibung:

Der Waschseibel besteht aus Sitzflächenträger (1) und Waschbeckenträger (2). Beide sind mit Schrauben verbunden. Auf dem Sitzflächenträger bewegt sich verschiebbar eine Sitzfläche (3), an der Rollen (4) befestigt sind. Diese Rollen führen beim Vorwärtsschieben auf der Führungstange (5); die hintere Sitzfläche nach unten und auf dem Führungsträger (6) die vordere Sitzfläche nach oben oder waagrecht. Eine Zugfeder (7) zieht die Sitzfläche in die Ausgangsstellung zurück.

35 22 170  
A 47 C 1/04  
20. Juni 1985  
2. Januar 1987



800 851/777

**TRANSLATION OF THE OFFICE ACTION**

**Dated April 12, 2002**

**P33020-114/ky**

Seat support table known, on which a hairdresser chair (3) is detachable, fixed, whereby the seat support table is attached to a moving part (4), which can be moved in the direction of the back rest of the hairdresser chair (3) to the front and back, and the moving part (4) has a fixation part for fixation of the hair dresser chair (3). (Compare description and figure.)

Therefore all the features of the claim 1 are known. Claim number 1 is therefore not new.

From DE 3522 110, there is already a hair washing station known, with a bowl, which has a neck rest part for the resting of the neck of a person which has to be washed, a standing part (2) for the support of the bowl and a support part (1) for the seat support table, whereby one end is affixed to the support part (2) and the other end is fixed to the seat support table, on which the hairdresser chair (3) is detachable fixed, whereby the seat support table being fixed to a moving part (4), whereby the moving part (4) can slide in the direction of the back rest on the hairdresser chair (3) to the front and to the back, and the moving part (4) having a fixation part for the fixation of the hairdresser chair. (Compare figure).

Therefore, all the features of the additional claim 4 are already known. Claim number 4 is therefore not new. Therefore, claim 4 cannot be granted.

The other claims cannot be granted because of formal causes, as the independent claims 1 and 2, on which the dependent claims 2, 3, 5 and 6 are related to, are not grantable.

For the claims 2,3,5 and 6, the Offenlegungsschrift DE 3522 110 is relevant. The moving part which can be moved along the guiding rails (5) and (6), for the guidance of the sledge of the moving part, and the device for the controlling of the moving force (7), for the control of the movement of the moving part, is not new according to the figure of DE 3522 110. The fixation part, the fixation of the hairdresser chair (3) which is characterized by a protrusion (1), which engages an engagement part on the back part of the hairdresser chair (3), is not new according to the figure of the Offenlegungsschrift 3522 110. It is also not new that the moving part can be moved in a wanted position along the guiding rails (5) and (6) for the guidance of the sledge of the moving part and the existence of a device for the controlling of

a moving part is also not new. According to the figures of DE 3522 110, the fixation part with the protrusion part (1), which can be engaged by the engaging part is also not new.

Therefore the patent cannot be granted.

The Examiner of Class A 47C

# Deutsches Patent- und Markenamt

München, den 26. März 2002

Telefon: (0 89) 21 95 - 2729

Aktenzeichen: 101 32 852.4-14

Deutsches Patent- und Markenamt - 80297-München

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Prüfungsantrag, wirksam gestellt am 6. Juli 2001

Eingabe vom eingegangen am

Die Prüfung der oben genannten Patentanmeldung hat zu dem nachstehenden Ergebnis geführt.  
Zur Äußerung wird eine Frist von

4 Monat(en)

gewährt, die mit der Zustellung beginnt.

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Anlagen: Abl. von 1 Entgegenhaltung 2-fach

Mr

## Hinweis auf die Möglichkeit der Gebrauchsmusterabzweigung

Der Anmelder einer nach dem 1. Januar 1987 mit Wirkung für die Bundesrepublik Deutschland eingereichten Patentanmeldung kann eine Gebrauchsmusteranmeldung, die den gleichen Gegenstand betrifft, einreichen und gleichzeitig den Anmeldetag der früheren Patentanmeldung in Anspruch nehmen. Diese Abzweigung (§ 5 Gebrauchsmustergesetz) ist bis zum Ablauf von 2 Monaten nach dem Ende des Monats möglich, in dem die Patentanmeldung durch rechtskräftige Zurückweisung, freiwillige Rücknahme oder Rücknahmefiktion erledigt, ein Einspruchsverfahren abgeschlossen oder - im Falle der Erteilung des Patents - die Frist für die Beschwerde gegen den Erteilungsbeschluss verstrichen ist. Ausführliche Informationen über die Erfordernisse einer Gebrauchsmusteranmeldung, einschließlich der Abzweigung, enthält das Merkblatt für Gebrauchsmusteranmelder (G 6181), welches kostenlos beim Patent- und Markenamt und den Patentinformationszentren erhältlich ist.

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31 - 38 Haltestelle Isartor

Cincinnatistraße  
S2 Haltestelle Fasangarten  
Bus 88 / 99 (ab S-Bahnhof Giesing) Haltestelle Cincinnatistraße

1) DE 35 22 110 U1A

Aus der Entgegenhaltung 1 ist bereits ein Sitzauflagetisch bekannt, an dem ein Frisör- oder Kosmetikstuhl 3 lösbar befestigbar ist, wobei der Sitzauflagetisch mit einem Verschiebeteil 4 versehen ist, welches in Richtung einer Sitzrückfläche des zu befestigenden Frisör- oder Kosmetikstuhles 3 nach vorne und hinten gleitet, und der Verschiebeteil 4 mit einem Befestigungsabschnitt zur Befestigung des Frisör- oder Kosmetikstuhles 3 versehen ist (vgl. Beschreibung und Figur).

Hiernach waren sämtliche Merkmale des geltenden Anspruchs 1 bekannt. Der Anspruch 1 ist daher mangels Neuheit seines Gegenstandes nicht gewährbar.

Aus der Entgegenhaltung 1 ist auch bereits eine Haarwaschstation bekannt, mit einem Kugelteil, das mit einem Nackenaufnahmeabschnitt zur Aufnahme eines Nackenabschnittes einer zu waschenden Person versehen ist, einen Beinabschnitt 2 zum Abstützen des Kugelabschnittes und einen Stützarm 1 für den Sitzauflagetisch, dessen eines Ende am Beinabschnitt 2 befestigt ist und dessen anderes Ende mit einem Sitzauflagetisch versehen ist, an dem ein Frisör- oder Kosmetikstuhl 3 lösbar anbringbar ist, wobei der Sitzauflagetisch mit einem Verschiebeteil 4 versehen ist, welches in Richtung einer Rückenlehne des anzubringenden Frisör- oder Kosmetikstuhles 3 nach vorne oder hinten gleitet und der Verschiebeteil 4 mit einem Befestigungsabschnitt zur Befestigung des Frisör- oder Kosmetikstuhles versehen ist (vgl. Fig.).

Hiernach waren auch sämtliche Merkmale des nebengeordneten Anspruchs 4 bekannt. Der Anspruch 4 ist daher ebenfalls mangels Neuheit seines Gegenstandes nicht gewährbar.



## II.

Die Unteransprüche können schon aus formalen Gründen nicht verbleiben, da die Ansprüche, auf die sie rückbezogen sind, nicht gewährbar sind.

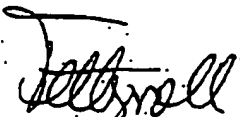
Zu den Ansprüchen 2 und 3 sowie 5 und 6 wird auf die Entgegenhaltung 1 verwiesen, da diese bereits zeigt:

- a) dass das Verschiebeteil in eine gewünschte Position entlang einer Führungsschiene 5,6 zur Führung eines Schlittens des Verschiebeteils verschoben wird und eine Verschiebekraftsteuereinrichtung 7 zur Steuerung der zum Verschieben des Verschiebeteils notwendigen Verschiebekraft vorgesehen ist (vgl. Fig.),
- b) dass der Befestigungsabschnitt zur Befestigung des Frisör- oder Kosmetikstuhls 3 als ein Vorsprung 1 ausgestaltet ist, der mit einem Eingriffsabschnitt an einer rückwärtigen Fläche des Frisör- oder Kosmetikstuhls 3 in Eingriff gelangt (vgl. Fig.),
- c) dass der Verschiebeteil in eine gewünschte Position entlang einer Führungsschiene 5,6 zur Führung eines Schlittens des Verschiebeteils verschoben wird und eine Verschiebekraftsteuereinrichtung 7 zur Steuerung der zum Verschieben des Verschiebeteils benötigten Verschiebekraft umfasst (vgl. Fig.), und
- d) dass der Befestigungsabschnitt zur Befestigung des Frisör- oder Kosmetikstuhls 3 als ein Vorsprung 1 ausgestaltet ist, der mit einem an einer rückwärtigen Fläche des Frisör- oder Kosmetikstuhls 3 vorgesehenen Eingriffsabschnitt in Eingriff gelangt (vgl. Fig.).

## III.

Bei der gegebenen Sachlage kann ein Patent nicht erteilt werden. Auf die am Anfang dieses Bescheides vorgedruckte Auflage wird besonders hingewiesen.

Prüfungsstelle für Klasse A47C



P 33 020 - ba

May 22, 2002

**TRANSLATION INTO ENGLISH OF:****German Offenlegungsschrift 35 22 110 A1:**

Date of filing : June 20, 1985

Applicant : Jobst, Fritz

Serial No. : P 35 22 110.0

**Claims**

- 1.) A seating surface support, characterized in that the rear guideways for the seat rollers are inclined at an oblique angle downwards and the front guideways for the seat rollers are inclined at an oblique angle upwards in a forward direction.
- 2.) A seating surface support according to claim 1, characterized in that the front guideway is horizontal.
- 3.) A seating surface support according to claims 1 and 2, characterized in that the seating surface support has three guideways (three-point support).
- 4.) A seating surface support according to claims 1, 2 and 3, characterized in that the seating surface support is made of steel tubes.
- 5.) A seating surface support according to claims 1, 2, 3 and 4, characterized in that the seating surface support is made of aluminium.
- 6.) A seating surface support according to claims 1, 2, 3, 4 and 5, characterized in that the seating surface support consists of a U-profile.

## Description

### General Aspects

Due to the fact that human beings are not equally tall, the height between the seating surface and the washbasin must be adjustable. The difference in height is obtained by tilting, displacing or vertically adjusting the washbasin. The same aim is achieved by displacing the seating surface in a horizontal or circular-arc position or by displacing it simultaneously forwards and downwards. Another possibility is a vertical adjustment of the seating surface. By means of the displacement, the upper part of the body is moved from a vertical to an inclined position. This has the effect that the distance between the seating surface and the washbasin becomes larger.

### Drawbacks

Drawbacks of vertical adjustment are movable hoses and the necessity of a higher operating accuracy (guidance). In the case of tiltable washbasins, the hair cannot be treated sufficiently at the lower position. Hairwash seats having a displaceable seating surface and 4 sliding points all have a sliding guideway. Due to the fact that the guideway support is fixed to the floor, which is never even, stresses are generated. The guideway support must therefore be stable so as to absorb the stresses. When the seating surface is displaced to the front and at an oblique angle downwards, the position of the legs of tall persons changes in a disadvantageous manner. The thigh no longer rests on the seating surface.

### Solution of the task and description of the hairwash seat

#### Solution:

Due to the use of a three-point and roller-type guidance, a light-weight construction can be employed. The seating surface will not tilt – not even in the case of uneven floors. The guideways for the seating surface are inclined downwards at the rear, and at the front they are horizontal or inclined upwards. When the seating surface is being displaced, the rear

edge moves downwards and the front edge upwards. Due to this movement, the thigh height is increased and the person on the seat will sit more comfortably. The various angular positions of the guideways – downwards at the rear and horizontal or upwards at the front – compensate the pressure caused by the body weight so that only a weak helical tension spring will be required for weight compensation.

#### Description:

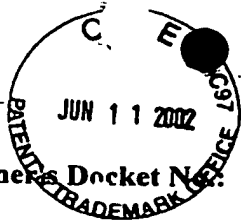
The hairwash seat comprises a seating surface support (1) and a washbasin support (2). The two components are connected by means of screws. A seating surface (3), which has rollers (4) secured thereto, moves displaceably on the seating surface support. When advanced on the guide bar (5), these rollers move the rear seating surface downwards, and, when advanced on the guide support (6), they move the front seating surface upwards or in a horizontal direction. A helical tension spring (7) draws the seating surface back to its starting position.

#### Abstract

##### Hairwash seat for hairdressers

The hairwash seat serve to wash a person's hair. By displacing the seating surface forwards and downwards, the distance between the washbasin and the seating surface will be enlarged. Hence, this seat can be used for washing the hair of persons of different heights.

# Appendix G



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#6  
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3751

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of: Toshiaki Kawakami

Ser. No.: 09/901,359

Art Unit: 3751

Filed: July 9, 2001

Examiner: Charles R. Elishway

For: SEAT SUPPORTING TABLE FOR A BARBER OR BEAUTY CHAIR AND HAIR  
WASHER WITH THE SEAT SUPPORTING TABLE

Assistant Commissioner for Patents  
Washington, DC 20231

I hereby certify that this correspondence is being deposited  
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*Susanne C. Aregano*  
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INFORMATION DISCLOSURE STATEMENT

**OK to Enter**

Sir:

Pursuant to 37 C.F.R. §1.56 and 37 C.F.R. §§1.97, 1.98, the attention of the Patent and Trademark Office is hereby directed to the reference listed on the attached Form PTO-1449. A copy of the reference listed on Form PTO-1449 is attached.

The above information is presented so that the Patent and Trademark Office may, in the first instance, determine any materiality thereof to the claimed invention. See 37 C.F.R. §1.104(a) and §1.105 concerning the PTO duty to consider and use any such information. It is respectfully requested that the information be expressly considered during the prosecution of this application, and that the reference be made of record therein and appear among the "References Cited" on any patent to issue therefrom.

The present Information Disclosure Statement is being filed (1) no later than three months from the application's filing date or (2) before the mailing date of the first Office Action on the merits (whichever is later), and therefore no certification under 37 C.F.R. §1.97(e) or fee under 37 C.F.R. §1.17(p) is required.

03-02

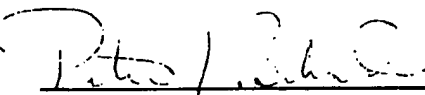
The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-0289.

Respectfully submitted,

Wall, Marjama & Bilinski LLP

May 24, 2002

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